

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

**FRANCES MOORE and
RAVEN MOORE,**

Plaintiffs,

v.

**TOWNSHIP OF BLOOMFIELD,
ESSEX COUNTY,
STATE OF NEW JERSEY.**

Defendants.

Civ. No. 17-7743

ORDER

KEVIN McNULTY, U.S.D.J.

THIS MATTER having come before the Court by way of motions to dismiss on various grounds, including lack of subject matter jurisdiction, filed separately by each of the defendants (ECF nos. 6, 7, 12); and it

APPEARING that Complaint does not plead diversity of citizenship, pursuant to 28 U.S.C. § 1332, in that the plaintiffs appear to be residents and citizens of the State of New Jersey, and the defendants are units of state and local government in New Jersey; and it further

APPEARING that the complaint asserts what the court interprets as tort claims arising from a motor vehicle accident, seeking to hold the defendants liable for their alleged failure to maintain adequate conditions of traffic safety, and that the complaint does not set forth any claim arising under federal law, see 28 U.S.C. § 1331; and it further

APPEARING that plaintiffs' sole response to these motions to dismiss is a letter (ECF no. 8) in which they concede that the boxes on the civil cover

sheet for federal question, diversity, and U.S. government defendant did not apply; state that they checked the box for U.S. government plaintiff in error; and "respectfully request time to reinstate our claim in the proper jurisdiction"; and it further

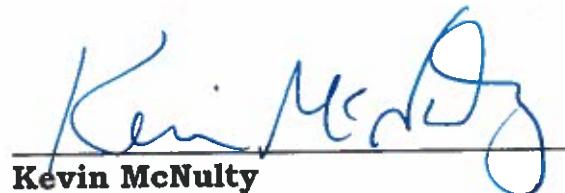
APPEARING that this court wholly lacks subject matter jurisdiction and cannot consider other grounds for dismissal, such as the alleged lack of a notice of tort claim under State law; and it further

APPEARING that where jurisdiction is lacking the proper course is dismissal of the complaint without prejudice, *see Siravo v. Crown, Cork & Seal Co.*, 256 F. App'x 577, 580-81 (3d Cir. 2007) (non-precedential) (citing *In re Orthopedic "Bone Screw" Prods. Liab. Litig.*, 132 F.3d 152, 155 (3d Cir.1997);

IT IS this 3d day of January, 2018,

ORDERED that the motions (ECF nos. 6, 7, 12) are GRANTED on jurisdictional grounds only, and that the Complaint is DISMISSED WITHOUT PREJUDICE for lack of subject matter jurisdiction.

The clerk shall close the file.



Kevin McNulty
United States District Judge